Court No. 2

Writ Petition No. 411 (M/B) of 2002

M/s Vimal Industries and others..... Petitioner

Vs.

State of Uttaranchal and others..... Respondents

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Hon. P.C. Verma, A.C.J.
Hon. Irshad Hussain, J.

Heard Sri R.D. Khare, learned counsel for the petitioners, learned Standing Counsel, Sri C.K. Sharma, appearing on behalf of Sri S. Dhulia, learned counsel for the respondent no. 2 and Sri L.P. Nathani for the learned counsel for the respondent nos. 3 and 4.

This is a writ petition filed by the petitioner seeking a writ of mandamus to command the respondent not to allow the respondent no.3 and 4 to run the institution for imparting education as contained in the curriculum of the institution. This petition is not in the nature of public interest litigation, but the petitioner has filed this petition as he felt aggrieved.

On a query as to what is the grievance of the petitioner and how it is substantiated, no legitimate grievance could be pointed out by the learned counsel for the petitioner except that certain complaints were made by the respondent nos. 3 and 4. It is not a proper forum. If certain complaint is made against the petitioner with regard to the alleged grievance, the petitioner may file a writ in the nature of prohibition to prohibit imparting of education by the institution. It is settled law that a writ of mandamus can be issued only for the enforcement of duty cast on the State or its instrumentality or any authority, when on a representation it fails to decide it. Therefore, in the facts and circumstances of the case, we are of the opinion that the writ of mandamus can not be issued. Accordingly, we refuse to entertain the petition.

It is made clear that for settlement of dispute raised in the complaint, it is open for the parties to get the issue settled before the competent authorities. However, respondent no. 3 and 4 have no right to interfere with the business of the petitioner. This position has been clarified by

Sri L.P. Naithani, learned Senior Counsel, counsel for the respondent nos. 3 and 4 that they are not interfering with the functioning of the petitioner except the complaint relating to the pollution and other activities carried on by the petitioner, not permissible under law.

In view of the above, we direct the respondent authorities to decide the representation of the petitioners contained in annexure 18 to the writ petition within a period of one month from the date of production of certified copy of this order.

The petition is disposed of accordingly.

(P.C. Verma, A.C.J.) **(Irshad Hussain, J.)**

Dt. 22.4.2003
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